

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BERLINDA WASHINGTON,	§
	§
Defendant Below-	§ No. 546, 2009
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0902016481
Plaintiff Below-	§
Appellee.	§

Submitted: March 2, 2010
Decided: March 11, 2010

Before **HOLLAND, BERGER, and JACOBS**, Justices.

ORDER

This 11th day of March 2010, upon consideration of the appellant's Supreme Court Rule 26(c) brief, her attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) A Superior Court jury found the defendant-appellant, Berlinda Washington, guilty of one count of theft and three counts of making a false, sworn statement. The Superior Court sentenced Washington to a total period of four years at Level incarceration to be suspended entirely for a one-year period of probation. This is Washington's direct appeal.

(2) Washington's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Washington's counsel asserts that,

based upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Washington's attorney informed her of the provisions of Rule 26(c) and provided Washington with a copy of the motion to withdraw and the accompanying brief. Washington also was informed of her right to supplement her attorney's presentation. Washington has not raised any issues for this Court's consideration. The State has responded to the position taken by Washington's counsel and has moved to affirm the Superior Court's judgment.

(3) The standard and scope of review applicable to the consideration of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold: (a) this Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (b) this Court must conduct its own review of the record and determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.*

(4) The Court has reviewed the record carefully and has concluded that Washington's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Washington's counsel

* *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

has made a conscientious effort to examine the record and the law and has properly determined that Washington could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Carolyn Berger
Justice